

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

WILLIAM JAMES WALLACE, II,  
Plaintiff,  
v.  
J. WHITE, et al.,  
Defendants.

Case No. 1:20-cv-00844-NONE-EPG (PC)

ORDER DIRECTING SERVICE OF  
SUBPOENA BY THE UNITED STATES  
MARSHALS SERVICE WITHOUT  
PREPAYMENT OF COSTS

(ECF Nos. 38, 40)

ORDER DIRECTING CLERK TO ATTACH  
COPY OF SUBPOENA TO THIS ORDER

William James Wallace, II (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

The Court previously allowed Plaintiff to issue a subpoena to the Wasco State Prison in order to identify Defendant John Doe. (ECF Nos. 38, 40.) Plaintiff has now completed and returned the subpoena and USM-285 form.

The subpoena requests production of “[a]ll maintenance records, work orders, electronic correspondence concerning maintenance in Unit H2 between the dates of 01-21-20 / 02-26-20. Any and all 22 forms, 602 forms submitted by Plaintiff while housed at Wasco.” On the special instructions portion of the USM-285 form, Plaintiff states “All maintenance records, work orders, electronic correspondence concerning maintenance in Unit H2 between the dates of 01-21-20/02-26-20 initiated by the Plaintiff, including but not limited to, work order signed by the Plaintiff specifically on the date of 02-05-20, ‘Defendant Doe’ performed maintenance and signed this

1 work order as did the Plaintiff. Any and all 22 forms (request for correspondence) and 602 forms  
2 (grievance) submitted by the Plaintiff while housed at Wasco State Prison between 01-21-20 / 02-  
3 26-20.”

4 As explained in the Court’s order entered on July 9, 2021, Plaintiff is allowed to subpoena  
5 documents for the purpose of identifying the Doe defendant. (*See* ECF No. 38.)<sup>1</sup> However, the 22  
6 forms and 602 forms do not appear to be relevant to identifying the Doe defendant. Accordingly,  
7 the Court will limit Plaintiff’s subpoena to all maintenance records, work orders, and electronic  
8 correspondence concerning maintenance in Unit H2 between January 21, 2020 and February 26,  
9 2020, including but not limited to the work order signed by Plaintiff on February 5, 2020. If  
10 Plaintiff seeks additional documents regarding the merits of his claims, including the 22 forms  
11 and 602 forms, he may request them from Defendants or file a motion for a subpoena *duces*  
12 *tecum* as outlined in the Scheduling Order. (*See* ECF No. 36.)

13 Additionally, Plaintiff identifies Warden Heather Shirley and Associate Warden James  
14 White as recipients of the subpoena. The Court will authorize the subpoena to be served on the  
15 Warden of Wasco State Prison.

16 Plaintiff failed to include a date for the responsive documents to be produced. The Court  
17 will give the Warden thirty-one (31) days from the date of service of the subpoena to respond to  
18 the subpoena.

19 Finally, Plaintiff identified the place of production as Wasco State Prison, 701 Scofield  
20 Ave, Wasco, CA. If there are any responsive documents to be produced, the Warden may mail the  
21 material to William James Wallace, II, 6474 Willow Pl, Carlsbad, CA 92011.

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23 Accordingly, it is HEREBY ORDERED that:

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24 <sup>1</sup> Pursuant to the Scheduling Order, Plaintiff may subpoena other documents from someone who is not a party in this  
25 case but he must first file a request for the issuance of a subpoena and (1) identify the documents sought and from  
26 whom; (2) explain why the documents are relevant to the claims in this case; and (3) make a showing in the request  
27 that the records are only obtainable through a third party. (ECF No. 36.) Additionally, the Court will consider  
28 granting such a request *only if* the documents sought are not obtainable from Defendants through a Rule 34 request  
for production of documents. (*Id.*) Plaintiff has not explained how the documents he seeks are relevant to his claims  
or made a showing that the records are only obtainable through a third party. Plaintiff also has not submitted evidence  
that he previously attempted to request these documents from Defendants.

1. Plaintiff's subpoena is limited to all maintenance records, work orders, and electronic correspondence concerning maintenance in Unit H2 between January 21, 2020 and February 26, 2020, including but not limited to the work order signed by Plaintiff on February 5, 2020;
2. The Warden of Wasco State Prison has thirty-one (31) days from the date of service of the subpoena to respond to the subpoena;
3. The Warden of Wasco State Prison may mail any responsive documents to William James Wallace, II, 6474 Willow Pl, Carlsbad, CA 92011;
4. The Clerk of Court shall forward the following documents to the United States Marshals Service:
  - a. One (1) completed and issued subpoena *duces tecum*;
  - b. One (1) completed USM-285 form; and
  - c. Two (2) copies of this order, one to accompany the subpoena and one for the United States Marshals Service.
5. The Clerk of Court is directed to attach a copy of the completed subpoena *duces tecum* to this order.
6. Within twenty (20) days from the date of this order, the United States Marshals Service shall personally serve the subpoena, along with a copy of this order, on the Warden of Wasco State Prison pursuant to Rule 45 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c).
7. The United States Marshals Service is directed to retain a copy of the subpoena in its file for future use.
8. Within ten (10) days after personal service is effected, the United States Marshals Service shall file a return of service.

IT IS SO ORDERED.

Dated: August 16, 2021

/s/ Eric P. Gray  
UNITED STATES MAGISTRATE JUDGE